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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 CECILIA GOETZ,

9 Plaintiff,

v.

10 NATIONAL RAILROAD PASSENGER  
11 CORPORATION, d/b/a AMTRAK,

12 Defendant.

CASE NO. C18-93 BHS

ORDER GRANTING  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT ON  
PUNITIVE DAMAGES

13 This matter comes before the Court on Defendant National Railroad Passenger  
14 Corporation d/b/a Amtrak's ("Amtrak") motion for summary judgment on punitive  
15 damages. Dkt. 57. The Court has considered the pleadings filed in support of and in  
16 opposition to the motion and the remainder of the file and hereby grants the motion for  
17 the reasons stated herein.

18 **I. PROCEDURAL AND FACTUAL BACKGROUND**

19 This is the third motion for summary judgment on punitive damages arising from  
20 the same train accident. *See Garza v. Nat'l R.R. Passenger Corp.*, C18-5106BHS, 2019  
21 WL 4849489 (W.D. Wash. Oct. 1, 2019) ("Garza"); *Wilmotte v. Nat'l R.R. Passenger*  
22 *Corp.*, C18-0086BHS, 2019 WL 3767133 (W.D. Wash. Aug. 9, 2019) ("Wilmotte").

1 Because those citations provide a detailed version of the facts, the Court will only briefly  
2 address the procedural history of this matter.

3 On January 9, 2018, Plaintiff Cecilia Goetz (“Goetz”) filed a complaint for  
4 damages in King County Superior Court for the State of Washington. Dkt. 1-2. Goetz  
5 seeks actual and punitive damages. *Id.* On January 22, 2018, Amtrak removed the  
6 matter. Dkt. 1.

7 On August 21, 2019, Amtrak filed a motion for summary judgment. Dkt. 57. On  
8 September 9, 2019, Goetz responded. Dkt. 59.<sup>1</sup> On September 13, 2019, Amtrak replied.  
9 Dkt. 62.

## 10 II. DISCUSSION

### 11 A. Summary Judgment Standard

12 Summary judgment is proper only if the pleadings, the discovery and disclosure  
13 materials on file, and any affidavits show that there is no genuine issue as to any material  
14 fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c).  
15 The moving party is entitled to judgment as a matter of law when the nonmoving party  
16 fails to make a sufficient showing on an essential element of a claim in the case on which  
17 the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317,  
18 323 (1986). There is no genuine issue of fact for trial where the record, taken as a whole,  
19 could not lead a rational trier of fact to find for the nonmoving party. *Matsushita Elec.*

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21 <sup>1</sup> Goetz filed a redacted version of her response on the electronic docket and provided the Court  
22 with a courtesy copy of the unredacted version. Under the local rules, Goetz must provisionally file an  
unredacted version under seal along with a motion to seal. Local Rules W.D. Wash. LCR 5(g).

1 *Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (nonmoving party must  
2 present specific, significant probative evidence, not simply “some metaphysical doubt”).  
3 *See also* Fed. R. Civ. P. 56(e). Conversely, a genuine dispute over a material fact exists  
4 if there is sufficient evidence supporting the claimed factual dispute, requiring a judge or  
5 jury to resolve the differing versions of the truth. *Anderson v. Liberty Lobby, Inc.*, 477  
6 U.S. 242, 253 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass’n*, 809 F.2d  
7 626, 630 (9th Cir. 1987).

8         The determination of the existence of a material fact is often a close question. The  
9 Court must consider the substantive evidentiary burden that the nonmoving party must  
10 meet at trial—e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477  
11 U.S. at 254; *T.W. Elec. Serv., Inc.*, 809 F.2d at 630. The Court must resolve any factual  
12 issues of controversy in favor of the nonmoving party only when the facts specifically  
13 attested by that party contradict facts specifically attested by the moving party. The  
14 nonmoving party may not merely state that it will discredit the moving party’s evidence  
15 at trial, in the hopes that evidence can be developed at trial to support the claim. *T.W.*  
16 *Elec. Serv., Inc.*, 809 F.2d at 630 (relying on *Anderson*, 477 U.S. at 255). Conclusory,  
17 nonspecific statements in affidavits are not sufficient, and missing facts will not be  
18 presumed. *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888–89 (1990).

## 19 **B. Merits**

20         “In resolving conflict of law tort questions, Washington has abandoned the *lex loci*  
21 *delicti* rule and follows the *Restatement (Second) of Conflict of Laws*’ most significant  
22 relationship test.” *Singh v. Edwards Lifesciences Corp.*, 151 Wn. App. 137, 143 (2009)

1 (citing *Johnson v. Spider Staging Corp.*, 87 Wn.2d 577, 580 (1976)). This is a two-step  
2 inquiry involving a weighing of the parties' contacts with the two jurisdictions and then,  
3 if the contacts are evenly balanced, evaluating the public policies and governmental  
4 interests of the concerned states. *Id.* at 143–44 (citing *Johnson*, 87 Wn.2d at 58–82).  
5 “Washington courts have held that these same choice of law principles apply to the issue  
6 of punitive damages.” *Id.* at 144–45 (examining *Kammerer v. W. Gear Corp.*, 96 Wn.2d  
7 416 (1981); *Barr v. Interbay Citizens Bank of Tampa, Fla.*, 96 Wn.2d 692 (1981)).

8 In determining which jurisdiction has the most significant relationship to a  
9 particular issue, which in this case is the availability of punitive damages, the Court  
10 weighs “(a) the place where the injury occurred, (b) the place where the conduct causing  
11 the injury occurred, (c) the domicile, residence, nationality, place of incorporation and  
12 place of business of the parties, and (d) the place where the relationship, if any, between  
13 the parties is centered.” *Id.* at 143 (citing *Johnson*, 87 Wn.2d at 581). Although the  
14 Court should consider each category of contacts, the Court starts with the general  
15 “presumption that in personal injury cases, the law of the place of the injury applies . . . .”  
16 *Zenaida-Garcia v. Recovery Sys. Tech., Inc.*, 128 Wn. App. 256, 261–62 (2005).

17 In this case, as in *Garza* and *Wilmotte*, the significant dispute involves the place  
18 where the conduct causing the injury occurred. Goetz fails to provide any additional  
19 evidence or argument that persuades the Court that Delaware law should apply. This is  
20 not a situation in which the majority of relevant decisions or omissions clearly occurred  
21 in another state. For example, in *Singh*, the defendant discovered the error in its software  
22 in California, and it made the decision not to recall the product in California. 151 Wn.

1 App. at 146–47. Even though the injury occurred in Washington, the court held that  
2 California law applied because “the conduct that serves as the basis of the punitive  
3 damage award here occurred in California and that state has an interest in deterring its  
4 corporations from engaging in such fraudulent conduct.” *Id.* at 148.

5 Contrary to the facts in *Singh*, the relevant facts here establish decisions that  
6 permeated Amtrak’s local and Delaware offices. The initial planning, construction, and  
7 training occurred in Washington. The local office then sent incorrect information to  
8 Delaware employees who allegedly failed to adequately review and correct the  
9 information or travel plan. Then the local employees initiated the trip and failed to heed  
10 speed warnings immediately before the accident. Based on this multiplicity of contacts,  
11 Goetz has failed to overcome the presumption that Washington law applies as the place  
12 of the injury. Thus, Goetz’s punitive damages claim is dismissed for these reasons and  
13 the reasons set forth in the Court’s orders in *Garza*, 2019 WL 4849489, and *Wilmotte*,  
14 2019 WL 3767133.

### 15 **III. ORDER**

16 Therefore, it is hereby **ORDERED** that Amtrak’s motion for summary judgment  
17 on punitive damages, Dkt. 57, is **GRANTED**.

18 Dated this 16th day of October, 2019.

19  
20   
21 BENJAMIN H. SETTLE  
22 United States District Judge